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COMMONWEALTH OF VIRGINIA

STATE CORPORATION COMMISSION

AT RICHMOND, FEBRUARY 26, 1999

COMMONWEALTH OF VIRGINIA, ex rel.

STATE CORPORATION COMMISSION

Ex Parte: Investigation of the
termination of local exchange
for failure to pay for long
distance services

CASE NO. PUC970113

FINAL ORDER

By order entered July 23, 1997, the Commission invited comments concerning its investigation of the termination of local exchange services for failure to pay for long distance services. Comments were filed by nine parties on September 5, 1997. On September 26, 1997, the Commission's Staff submitted a report that included recommendations and suggestions for further action. The Commission invited comments in response to the Staff report. Responses were submitted on January 16, 1998, by Hyperion Telecommunications of Virginia, Inc., MCI Telecommunications Corporation, and Bell Atlantic-Virginia, Inc. ("BA-VA").

By order of August 3, 1998, the Commission propounded five proposed rules (Attachment A to that order), invited comments concerning the proposed rules, and directed publication of the proposed rules in the Virginia Register. Comments concerning

the proposed rules were received, on or before September 4, 1998, from AT&T Communications of Virginia, Inc. ("AT&T"), MCI Telecommunications (now MCI WorldCom, "MCIW") BA-VA, the Virginia Telecommunications Industry Association ("VTIA"), Cox Virginia Telecom, Inc., GTE South, Inc., Sprint Communications Company LP ("Sprint"), Central Telephone Company of Virginia ("Centel"), United Telephone-Southeast, Inc. ("United"), John Grier Construction Company, LCI International Telecom Corp., Bottom Line Solutions, Inc., Virginia Citizens Consumer Council ("VCCC"), and numerous private citizens.

On October 16, 1998, MCIW filed its Motion to Investigate "Cramming" and "Slamming" and requested the Commission to form an industry-staff task force to study these two problem areas.

Pursuant to that motion and the comments received earlier, the Commission, on October 20, 1998, entered its Order Scheduling Hearing "to receive evidence concerning the possible economic and financial effects of implementing the proposed rules, any issues raised in the above-noted MCI comments, and any other matter, material and relevant to the issues." The hearing date was subsequently rescheduled from November 24, 1998, to February 17, 1999, pursuant to a motion for additional time filed by the VTIA.

The matter was heard February 17, 1999. Public comments were received from Jean Ann Fox, Vice President of the VCCC. Appearances were entered by Robert M. Gillespie on behalf of the

Commission's Staff; Warner F. Brundage, Jr. on behalf of BA-VA; Donald G. Owens and Michael McRae on behalf of AT&T; Michelle Walsh on behalf of the VTIA; James Scheltema on behalf of MCIW; and James B. Wright on behalf of Sprint, Centel, and United.

Testimonies were presented by Kathleen A. Cummings on behalf of the Commission's Staff; Lawrence S. Grant on behalf of BA-VA; Lilli Taylor on behalf of Sprint, Centel, and United; Denise Crombie on behalf of AT&T; and Donald A. Laub on behalf of MCIW.

Having considered the comments, the testimony and exhibits submitted at the February 17th hearing, and the proposed rules, the Commission has determined that the proposed rules should be adopted as published with one exception. That exception is proposed Rule D. Rule D needs only slight modification to accommodate the concerns of the parties that a Local Exchange Carrier ("LEC") is incapable of blocking access to only selected Interexchange Carriers ("IXCs") from the LEC's facilities. To address that concern, Rule D is modified as follows:

A LEC billing on behalf of an interexchange carrier may, together with the interexchange carrier, block a customer's access to the interexchange carrier when the toll charges of the interexchange carrier have not been paid by that customer; but the LEC may not block that customer's access to other interexchange carriers for such nonpayment.

Due to the Federal Communications Commission's continuing investigation of "cramming" and "slamming," we are not persuaded to grant MCIW's motion to create such a task force at this time.

Accordingly, IT IS THEREFORE ORDERED THAT:

(1) MCIW's Motion to Investigate "Cramming" and "Slamming" is denied.

(2) The proposed rules as modified and restated in Attachment A hereto, are hereby adopted and shall become effective on July 1, 1999.

(3) The rules as adopted shall be published in the Virginia Register.

(4) There being nothing further to come before the Commission, this matter is dismissed and the record developed herein shall be placed in the file for ended causes.

STATE CORPORATION COMMISSION
Division of Communications

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20 VAC 5-400-151. Disconnection of Local Exchange Telephone Service.

A. A Local Exchange Company ("LEC") may terminate local exchange service only for a customer's failure to pay for services billed on behalf of the LEC when the services are in tariffs on file with the Virginia Commission and there is no bona fide dispute concerning such services. After intraLATA dialing parity has been implemented, a LEC may not terminate local exchange service for a customer's failure to pay for the LEC's intraLATA toll services.

B. LECs shall indicate on customers' monthly bills those items for which service may not be terminated for failure to pay and shall include an explanation, by footnote or otherwise, that local telephone service may not be terminated for failure to pay for those services. The form of this notification must receive prior approval from the Commission's Division of Communications.

C. LEC White Pages telephone directories published after the date of the order adopting these rules shall include an explanation of the services for which local exchange service may be terminated for failure to pay.

D. ~~[LECs may not block a customer's access to all IXCs for that customer's failure to pay toll charges of an IXC. A LEC billing on behalf of an interexchange carrier may, together~~

with the interexchange carrier, block a customer's access to the interexchange carrier when the toll charges of the interexchange carrier have not been paid by that customer; but the LEC may not block that customer's access to other interexchange carriers for such nonpayment.]

E. Customer payments that are less than the total bill balance shall be credited first to basic local exchange access and usage, with any remainder credited next to any other LEC non-competitive tariffed services, and finally to any other charges on the bill.